

Government of India
Ministry of Labour & Employment,
Central Government Industrial Tribunal-Cum-Labour Court-II, New
Delhi.

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 31/2019

Date of Passing Award- 22nd May, 2023

Between:

Shri Girish Chand Raturi,
S/o Late Shri Seesh Ram,
Village & Post Office- Sankarsand Patti Bali,
Kandarsuin, Garhwal, Uttrakhand-246123.

Workman

Versus

1. Chief Post Master General,
Uttrakhand Circle, Dehradun-248001
2. Supreiindendent of Post , Pauri Circle,
Pauri Gahrwal, Garhwal, Uttrakhand-246001

Managements

Appearances:-

Workman in person.

None for the Management.

A W A R D

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e.(i) Chief Post Master General, (ii) Superintendent of Post and its workman/claimant herein, under clause (d) of sub section (1)and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-40012/12/2017IR(DU)) dated 24.01.2019 to this tribunal for adjudication to the following effect.

“ Whether the action of the management of Superintendent of Post, pauri Circle pauri Garhwal in terminating the services of the workman Shri. Girish Chand Raturi, S/o Shri. Sheesh Ram Raturi w.e.f. 28/10/2010 is legal and justified, if not then what relief the workman is entitled to?”

As per the claim statement the claimant Girish Chand Raturi was appointed in the mgt on 23.03.1987 as Postman pursuant to a written order. He was discharging his duty with all seniority and commitment. During the course of his employment he had not given any scope of complaint to anybody and no disciplinary action was ever taken against him. On 03.05.2010 advertisement was issued to fill up the vacant posts of Postmaster at Shankar Sen and the claimant submitted his application for the same on 21.05.2010. His application was received by the mgt much prior to the last date. Not only that his application through the employment exchange was also received before the due date. Despite that the claimant was not called for the interview held for the post though he was having all the requisite qualification and experience for the post and in a better footing than all other applicants. The mgt ignoring the experience of the claimant who was working for the mgt since 1987 ignored him by keeping him aware from the zone of consideration. The claimant sought for the information about the status of his application for employment by filing an application under the RTI Act. In the year 2012 the information was furnished stating that his candidature has been

rejected. The claimant thereafter made representations in writing as well as verbally to the officers of the mgt to consider his candidature but his grievance was not redressed. Finding no other way he raised a dispute before the CGIT Lucknow. But the CGIT Lucknow returned his application with a direction to approach the conciliation officer. Though an application was filed by him before the conciliation officer, no fruitful results could be achieved. For the failure of conciliation the appropriate Govt. referred the matter for adjudication in terms of the reference.

It has been stated in the claim petition that the service of the claimant was illegally terminated with effect from 28.10.2010 and he had worked continuously for the mgt from 23.03.1987 to 27.11.2010. During this period no disciplinary action was taken against him. At the time of his termination the provisions of section 25F and 25M were violated by the mgt. Hence, in this claim petition the claimant had prayed for a direction to the mgt to reinstate him in service w.e.f 27.11.2010 with full back wages and continuity of service.

Being noticed the mgt had filed a written statement denying the stand taken by the claimant. The mgt had denied his relationship with the claimant as its employer. The specific stand taken is that on 23.02.1997 the claimant was temporarily appointed to perform the duty of postman on the leave vacancy as the regular postman Khushal Singh has proceeded on leave. Girish Chand Raturi was never appointed as a postman on 23.02.1987 as claim rightly. Hence, no letter of appointment was issued to him. The mgt had admitted that the Department of Post had issued advertisement to fill the post of postmaster of Shankar Sen as the post became vacant on account of the retirement of the post master. Altogether five applications were received and the merit list of the candidates was prepared by the appointing authority. In the said merit list the claimant was placed at serial number 5. Hence, he was not given appointment over the more qualified person and no illegality has been committed by not selecting him for the post of postmaster. The other stand taken by the mgt is that the claimant was never appointed as the postman for the period

1987 to 2010. Neither any appointment letter nor any termination letter was issued in favour of the claimant. Since he had worked for a brief period against a leave vacancy, his claim for reinstatement with back wages is illegal and unjustified. Hence he mgt had prayed for dismissal of the claim.

The claimant filed rejoinder denying the stand of the mgt. It has been reiterated that he was appointed on 23.03.1987 and his service was terminated on 27.10.2011 illegally. He was never appointed against any leave vacancy but his appointment was made directly against the vacant post.

On this rival pleading the following issues are framed for adjudication.

Issues

1. Whether the proceeding is maintainable.
2. Whether there exists any relationship as employer and employee between the management and the workman.
3. Whether the workman was illegally terminated by the management.
4. Whether the workman is entitled to reinstatement and other consequential benefits.

When the claimant was called upon to adduce evidence he filed his affidavit to form part of his evidence along with documents. Since that date the mgt remained absent. Neither the claimant was cross examined by the mgt nor any evidence was adduced to support their stand. Hence the right to adduce evidence was closed.

The claimant while giving evidence as ww1 produced few documents which were marked in a series of ww1/1 to ww1/15. The documents include the certificates of the claimant in proof of his academic qualification these documents show that the claimant had passed intermediate examination (High Secondary) in the year 1984

exbht. WW1/5 is a document which reveals that one Khushal Singh, post office Shankar Sen was granted leave from 19.03.1987 to 02.04.1987 without pay. WW1/6, WW1/7 and ww1/8 are the documents which reveal that the claimant was working for brief period as the postman against the temporary vacancies in different post offices. WW1/9 is the letter of the employment officer forwarding the application of the claimant to the Superintendent of post offices on 31.05.2010 for consideration against a vacant post. Similarly ww1/10 and ww1/11 are the letters showing taking over of the charge by the claimant during his temporary appointments. WW1/12 is the copy of the advertisement issued for filling of the post of the postmaster Shankar Sen. Ww1/13 is the application filed by the claimant before the conciliation officer. Basing on these documents the claimant has stated that he was working as the postman for the mgt from 23.03.1987 to 27.11.2010 when his service was illegally terminated. For the objection taken by the mgt denying the employer employee relationship and the status claim by the claimant, it is incumbent upon the claimant to establish that he was appointed as a postman by the mgt on 23.03.1987 and had worked continuously till 27.11.2010. The claimant in his oral statement though has asserted this fact, absolutely no documentary evidence has been adduced to prove the employment. Neither the letter of appointment nor any document like attendance register and salary slip etc. have been filed by the claimant. The isolated oral testimony cannot prove the status of the claimant as an employee of the mgt for the above said period. Now coming to the documents filed by the claimant, even if those stand unchallenged and unrebutted, this Tribunal does not find it proper to rely on the said documents since the documents clearly proves that the claimant was appointed intermittently against temporary vacancies. Neither he was in permanent nor in continuous employment of the mgt. Apart from this no evidence has been adduced to show the termination which has been denied by the mgt. Hence, it is concluded that the claim of the claimant for reinstatement into service and other reliefs on account of illegal termination as

alleged by him is not maintainable and the claimant is not entitled to any relief. Hence ordered

Order

The reference be and the same is answered against the claimant. This held that the claimant is not entitled to the relief of reinstatement into service with back wages under the mgt.

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947. The reference is accordingly answered.

Dictated & Corrected by me.

Presiding Officer.
CGIT-Cum-Labour Court.
22nd May, 2023

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